

MDOT  
SPECIAL PROVISION  
PREPARATION AND APPROVAL

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## 1. GENERAL INFORMATION

1.1 Purpose - To provide standard procedures for the development and approval of new or modified special provisions and related pay items

1.2 Scope - These procedures provide guidance for development of project specific special provisions, use of recommended and previously approved special provisions and annual review of frequently used special provisions

1.3 Referenced Documents

23 CFR 635  
FHWA Technical Advisory 5080.16 August 7, 1992  
Design Manual - Section 11  
US Government Printing Office Style Manual  
BOH IM 1998-11; 2003-10  
Engineering Operations Committee Minutes June 6, 2002

1.4 Contacts - Send questions and requests for more information to:

[SpecialProvisions@michigan.gov](mailto:SpecialProvisions@michigan.gov)

Look for approved special provisions on the MDOT web site at:

[http://www.michigan.gov/mdot/0,1607,7-151-9622\\_11044\\_11357-61564--,00.html](http://www.michigan.gov/mdot/0,1607,7-151-9622_11044_11357-61564--,00.html)

A link is provided from the MDOT Design SS/SP page.

<http://www.mdot.state.mi.us/dessssp/>

## 2. SPECIAL PROVISION PAGE LAYOUT

2.1 Document Format (Fig. 1) - Special provisions submitted for review and approvals that do not follow the approved document format, will be returned to the submitter to be reformatted before they are logged for review

<u>Fonts</u>	<u>Tabs/Indents</u>	<u>Bold face</u>
Header - 12 point	0.25 intervals	Title
Text - 11 point		Section headings
Tables - 10 point	<u>Margins</u>	Pay item names in M&P
Arial	1 inch all four sides	Table and figure titles

Figure 1: General Page Layout

## 2.2 Headers and Footers

MDOT Header (Fig. 2) - Center the MDOT header on the page as shown in Figure 2. The use of Bureau of Highways in the header was discontinued in 1998.

Make the special provision title short enough to fit on one line and provide a clear idea of the content and the subsection of the standard specifications being altered. If possible, include the contract item (pay item) affected or established by the special provision in the title. Do not abbreviate the pay item name in the title.

MICHIGAN DEPARTMENT OF TRANSPORTATION  SPECIAL PROVISION FOR <b>UNDERDRAIN AND UNDERDRAIN OUTLET VIDEO</b>
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Figure 2: MDOT Header

Secondary Header (Figs. 3 and 4) - The Secondary Header includes the source code, page number, and the approval code. Approval Code (C&T APPR:XXX:YYY) only appears on the first page of the document Source code, page numbers and the date approved appears on all other pages.

XXX:YYY	1 of #	C&T:APPR:XXX:YYY:00-00-00
<i>SOURCE CODE</i>	<i>PAGE</i>	<i>APPROVAL CODE</i>

Figure 3: Secondary Header (Page 1)

XXX:YYY	2 of #	00-00-00
<i>SOURCE CODE</i>	<i>PAGE</i>	<i>APPROVAL DATE</i>

Figure 4: Secondary Header (Page 2, 3, etc)

**Source Code** -This two-part code identifies where the provision originated and who is the author. Approved source codes are shown in Figure 5. The source code is used to log and search for previously approved special provisions. Do not include additional section and

unit initials. Do not include typist's initials. If more than one individual works on the special provision, decide who will be the contact person to answer questions about the document. Include that person's initials in the source code.

**NOTE:** Use the MDOT project manager's initials in the source code if the provision originates with a consultant. The use of consultant identifier was discontinued in 2001 to encourage reuse of approved special provisions.

*Support Area/Division Source Codes*-Include the three-letter support Area or Division identifier and the author's or project manager's initials. (ex: C&T:JAR)

AIR	Aeronautics	C&T	Construction and Technology
DES	Design	FIN	Finance
MNT	Maintenance	PLN	Planning
RED	Real Estate	T&S	Traffic and Safety
UPT	Uptan		

*Transportation Service Centers*-Include the three-letter TSC identifier and the author's or project manager's initials. (ex: OAK:JAR)

ALP	Alpena	BCY	Bay City	BRI	Brighton
CAD	Cadillac	CAS	Cass City	COL	Coloma
CRF	Crystal Falls	DAV	Davison	DET	Detroit
ESC	Escanaba	GND	Grand Rapids	GRY	Grayling
HCY	Howard City	ISH	Ishpeming	JAK	Jackson
KZO	Kalamazoo	LAN	Lansing	MAR	Marshall
MAC	Macomb	MTP	Mt. Pleasant	MUS	Muskegon
NEW	Newberry	OAK	Oakland	PTH	Port Huron
TAY	Taylor	TRV	Traverse City		

*Region Source Codes*- Include the Region identifier and the author's or project manager's initials. (ex: SUP:JAR)

SUP	Superior Region	NOR	North Region
GR	Grand Region	BAY	Bay Region
SWR	Southwest Region	UNIV	University Region
METRO	Metro Region		

Figure 4: Approved Source Codes

*Page Numbers* - Number special provisions at the top center of each page. The total number of pages in the special provision includes any graphics, appendices or forms which are part of the document. All graphics, appendices, or forms must also have page numbers.

**Approval Code** - The approval code indicates to the designer and to Specifications & Estimates that the special provision is ready to insert into the proposal. The approval code consists of the abbreviation C&T:APPR, the initials of the reviewer(s), and the date the special provision was approved. Subsequent pages will show only the date approved without the C&T and reviewer initials.

**NOTE:** Do not show the date the special provision was written. This practice was discontinued in 2001. Only the date approved and/or revised is shown in the secondary header.

**Revision Date** - If the document is revised without requiring re-approval (minor changes) add a revision date below the approval date. (Revised 00-00-00) The source code must also be changed to show the new author. Do not revise a special provision authored by someone else without changing the source code.

**Contract Numbers** - Contract numbers (control section, project/job numbers, trunkline etc.) do not need to be shown on special provisions. The same is true for document file names and consultant firm names. In order to facilitate the re-use of the special provision in subsequent proposals it is preferred that these items not be included. However, if the project manager decides that project numbers are necessary; these numbers are to be left-justified on the last page of the special provision.

**NOTE:** Do not include contract numbers or file names in a footer. The Department uses this area of the page to print proposal page numbers.

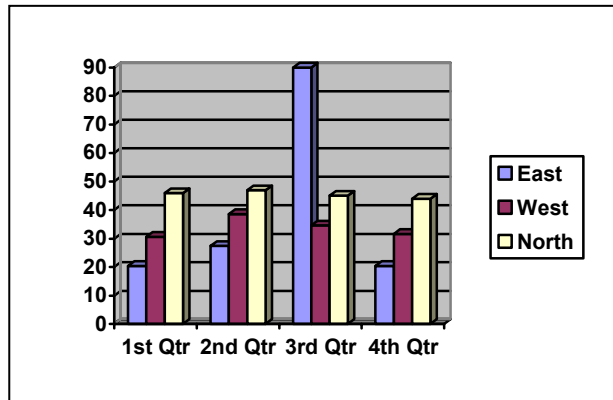
**2.3 Tables and Figures** - Minimize the use of tables and especially figures (graphics) in a special provision. Include figures only if they are absolutely necessary to present information not conveyed in the text. All figures must be in MS Word compatible format, preferably jpeg.

Reference all tables or figures in the text. Follow the table format in the standard specifications. All tables must have a table number and a title which clearly describes the content, placed above the table. All graphics must have a figure number placed below the graphic. Figures may be enclosed by a single line border.

Center tables and figures horizontally on the page and separate them from the text by several lines. (Fig. 5) In the case of large tables or multiple tables it is advisable to place the table(s) at the end of the document. Figures are generally placed at the end of the document.

**Table 1: Number and Title all Tables**

Use a Header Row that Will Continue on Subsequent Page(s) for Multiple Page Tables	Use Initial Caps in Column Headers, ft	Indicate Units for Table Values, °F
Use Initial Caps in Row Labels		
Use only single line borders.		
Use lower case letters for all footnotes. (a) Use parentheses around each footnote letter in the body of the table. (b)(c)		Do not separate with comma.(d)(e)
Do not use tables if the information can be presented in text format.		
<p>a. Include all footnotes in the last row of the table not outside the table. Do not use parentheses around footnote letters here. Use hard left indent to wrap text to indent point.</p> <p>b. Refer to standard specifications for examples of table footnote format.</p>		



**Figure 1: Traffic Count by Direction**

Figure 5: Table and Figure Format

### 3. WRITING STYLE

A successful specification is both clear and brief. Information that is not essential to the directions and commitments that will be a part of the contract only increases the potential for differing interpretation of the specification in the field. The author's intent should not be left open to interpretation.

Use short sentences with simple, direct language. Continuous restatements that the "Contractor shall ....." and "the work shall consist of..." do not provide needed information. Avoid repetition. If the original statement of the requirements seems vague or unclear, restating the requirement will likely worsen the problem. Instead, rethink the requirement and reword the sentence or subsection.

The primary goal is clear communication - what is required of the Contractor and how will the completed results be measured by the Department. Do not include a requirement if it cannot be verified. All terminology should be defined, particularly terms that are part of the required work responsibility of the Contractor or those that have a bearing on the quality of the work or its measurement.

3.1 Active Voice - Use of active voice grammar is preferred to directly state the essential directions and procedures. Writing in the active voice is accomplished by moving the verb to the beginning of the sentence followed by the subject. Use active voice-imperative mood to specify actions required of the Contractor. Refer to the standard specifications for help with the imperative mood writing style. The following examples illustrate how the usual (passive voice) language of past specifications can be changed by using active voice grammar and minor editing.

Passive: The gravel shall be placed and shaped by power equipment to the specified lines, grades, cross-sections, and depths, without segregation. (21 words)

Active: Place and shape gravel to the specified dimensions without segregation using power equipment. (13 words)

Passive: A mechanical broom or sweeper shall be provided which is adjustable to uniform contact with the surface and designed to thoroughly clean without cutting into the surface being swept. (29 words)

Active: Provide a mechanical broom or sweeper that can be adjusted to uniform surface contact and does not cut into the surface. (21 words)

Passive: Concrete shall be thoroughly consolidated against the faces of all forms and joints, including concrete in a previously constructed lane of pavement, by means of vibrators inserted in the concrete. (30 words)

Active: Consolidate fresh concrete against all form faces, joints, and previously constructed pavement using insertion type vibrators. (16 words)

*Exception to Active Voice* - Special provisions that alter the General Provisions of the contract are written in the more formal passive voice in order to mesh with Division 1 of the Standard Specifications for Construction.

3.2. Abbreviations, Capitalization, Etc - The *US Government Printing Office Style Manual* is generally followed for rules of capitalization and compounding.

*Abbreviations* - Use the pay item abbreviations shown in the Pay Item Code Book and in the spec book Pay Item Index.

*Units* - Spell out primary units such as inch or foot in the body of the text. Abbreviations or symbols are acceptable in tables and figures. The exception to this rule is the use of abbreviations for long compound units such as pounds per cubic foot (pcf) or pounds per square inch (psi). MDOT discontinued the use of "linear" in units of measure (e.g. linear feet) with the 2003 spec book.

*Capitalization* - Minimize the use of capital letters. Capitalize Engineer, Contractor and Department when used as proper nouns in the document. Capitalize Standard Specifications for Construction but not standard specifications.

*Italics* - Use italics for names of publications other than standard specifications. For example Standard Specifications for Construction is not shown in italics but *AWS Bridge Welding Code* is italicized.

3.3 Common phrases - Several common phrases have been adopted for use in MDOT specifications as a result of the move to the active voice - imperative mood writing style.

Passive wording: The Contractor shall [details of work] at no additional cost to the Department.

Active wording: [Details of work]. All costs associated with this work will be borne by the Contractor.

Passive wording: Materials shall be in accordance with...

Active wording: Materials must conform to... or Conform to...

Passive wording Payment for [Item Name] shall be considered to include...

Active wording [Item Name] includes...

### 3.4 Citing Specifications and Standards

*MDOT Standard Specifications* - Do not capitalize section and subsection, when used in references to the spec book. Sections are those listed in the table of contents, all other subdivisions of the spec book are subsections. Do not use "article", or the section symbol (§) to reference standard specifications.



*MDOT Standard Plans and Special Details* - Standard Plan R-128 Series or Special Detail R-39 Series. To ensure that the most current version is applied, do not include the letter designation of standard plans and details.

*AASHTO, ASTM and Michigan Test Methods* - (spaces are underlined for emphasis) ASTM\_D\_123; AASHTO\_M\_294; MTM\_209. The full title of the specification may be listed for the first use with only the letter and number designation used in subsequent instances within the document.

*Michigan Public Acts*- Cite by the act number and part. The year is not required.  
Example Act 451, Part 91, as amended

*Code of Federal Regulations* - Cite using the title, part and section number.  
Example 23 CFR 623.1 refers to title 23, part 623, section 1.

#### 4. ORGANIZING INFORMATION

4.1. Outline (Fig.6) - Follow the standard four-part outline when writing special provisions. Content of the document will dictate when this format is not applicable. The four headings used in preparing special provisions are the same as the subsections used in the standard specifications. Divide these subsections for clarity using the outlining convention shown in Figure 6. For example test methods and basis of acceptance may be subheadings in Materials and equipment may be a subheading of Construction.

This format establishes a uniform approach to providing needed information, describing the work to be performed and identifying the responsibilities of the Contractor and the Department. Information that does not fall within the four labeled parts of the format is not considered to be essential to the special provision.

- a. Description.**
- b. Materials.**
- c. Construction.**
  - 1. Arabic number followed by a period
    - A. Uppercase letter followed by a period
      - (1) Arabic number in parentheses - no period
      - (a) Lowercase letter in parentheses - no period
      - (i) Lowercase Roman numeral in parentheses - no period
    - Bullet - solid dot only
- d. Measurement and Payment.**

Figure 6: Expanding the MDOT Four-Part Special Provision Outline

Although the materials and construction sections may not always be applicable, they should not be omitted. The special provision should show all of the format parts using the notation "none specified" where the information is not applicable. For example, a special provision for Clearing, Modified would need a subsection for description, construction, and measurement, and payment, but there may be no materials requirements. The subsection would be presented as follows: **b. Materials.** None Specified.

Take time to organize thoughts to provide a logical progression of instructions. Each section of the special provision should progress from general administrative information to specific technical instructions. Use subheadings sparingly and only when their use adds to the clarity of the text. When listing only one or two items or clauses in text that does not include complex subheadings, it is appropriate to use bullets or indents in place of subheadings. Keep in mind, however, that contractual requirements are strictly interpreted based on subsection numbering and indentation.

**4.2 Description.** This section consists of a concise statement of the work to be done and, when needed for clarity, a general statement concerning compliance with plans and standard specifications. This section also establishes the relationship of the special provision to other contract documents, items of work or other phases of the construction. For complex specifications, it may be necessary to include definitions or terminology in this section.

Completely describe the scope of work covered by the special provision. Do not wait until somewhere in the measurement and payment section to state that furnishing, placing and compacting backfill is included in the work of removing a culvert. Do not elaborate on materials and construction methods in this section.

Do not cite the current standard specification year. This is covered by the Proposal cover and the title sheet of the plans, both of which state the specification year under which the project is to be constructed.

The same is true for manuals, test methods or standard specifications published by MDOT, AASHTO, ASTM, etc. if these are included by reference in the standard specifications or in the special provision. Subsection 101.01 of the Standard Specifications for Construction states "When a publication is specified, the most recent issue including interim publications prior to the date of advertisement for proposals for the Project is intended, unless otherwise specified." So unless there is a need to invoke an earlier version of a specification, just say "...according to the standard specifications..."

**4.3 Materials.** This section contains specifications; sampling and testing requirements; basis of acceptance for non-standard materials; and all changes, additions or deletions to material requirements covered by the standard specifications.

When specifying non-standard materials, state the underlying material specification (AASHTO, ASTM, MTM, etc.) and basis of acceptance for all materials not covered by the

Standard Specifications for Construction. State whether materials must be tested, certified, or otherwise accepted and the documentation required. Contact C&T Support Area staff if unsure. Follow the format of the materials sections of the spec book.

If all materials required are covered by the standard specifications, either state that all materials must conform to the standard specifications for the associated item of work or list the pertinent material name and section of the book. When standard materials are used in non-standard applications, list any changes from the standard basis of acceptance.

4.4 Construction. Avoid writing method specifications. Concentrate instead on the required end product. Avoid ambiguous phrases such as "to the fullest extent possible." If the requirement cannot be measured or is not measured against a standard, the use of adjectives and other word modifiers will not change the meaning of the directions. For instance, in field applications, what would be the difference between "thorough consolidation" and "consolidation" of fresh concrete? The judgment made in the field would be whether or not the fresh concrete has been consolidated.

Detail the sequence of events to be followed in completing the item of work or fulfilling the requirements of the provision. If no actual construction work is added to the project by the provision as in the case of a materials specification, a general statement to this effect may be included.

This section will generally be the most detailed part of the special provision and may need to be broken down into several subsections. In the case of a complex special provision, the subheadings under Construction might include **General Requirements**, **Documentation Required**, and **Equipment**.

4.5 Measurement and Payment. Use this section to establish any new contract items, clarify which standard contract items will be used to pay for the work required or to state that all work required by this special provision will be included in another pay item.

In general, the special provision includes the statement that "The work as described will be measured and paid for using the following contract items (pay items)". Provided that all significant aspects of the work have been included in the description section, and all requirements for acceptance of the work have been clearly explained in the materials and construction, this statement eliminates the need to restate what is included in each pay item here in the measurement and payment section. If it is necessary to provide a detailed pay item description, include this information after the list of contract items.

If there are no new contract items created to cover the work involved and it is obvious which existing contract items will be used, it is not necessary to include a tabular listing of contract items and pay units. Include a general statement such as "This work will be measured and paid for as specified in subsection ###.04 of the Standard Specifications for Construction."

If the cost for repairing, removing, replacing or otherwise making whole an item, will be borne by the Contractor, state this in the body of the special provision and do not restate in this subsection.

Do not state that "*Payment for [item] includes all labor, equipment and materials required to complete the work as described.*" This fact is covered by every Proposal cover sheet: "The undersigned hereby proposes to furnish all necessary machinery, tools, apparatus, and other means of construction, do all the work, furnish all the materials except as otherwise specified and...to complete the work ... in strict conformity with the requirements of the [year] Standard Specifications for Construction..." and by the definition of "work" in subsection 101.02 of the standard specifications: "Work. The furnishing of all labor, materials, equipment, and other items necessary to complete the project according to the contract."

Exceptions to this rule include instances when the Department or a third party will furnish equipment, labor or materials to be used or installed by the Contractor or if a unique piece of equipment or specific skilled labor (ex.: licensed electrician, certified pesticide applicator) is required to complete the work.

**NOTE:** List pay items using the exact Trans\*port wording and use the established Trans\*port abbreviations and follow the standard specification format of noun, adjective, modifier for all new pay items. (Fig. 7)

<b>Contract Item (Pay Item)</b>	<b>Pay Unit</b>
1st pay item name .....	1st pay unit
2nd pay item name .....	2nd pay unit
Conc, Reinf, 12 inch .....	Square Yard

Figure 7: Format of Pay Items and Pay Units

Explain how each pay item will be measured only if it is not apparent from the description of work and the pay unit. Be sure the work is clearly described in section (a) of the provision. Pay items referenced here, but not used to measure and pay for the work described, are abbreviated but not shown in bold face type.

4.6 Appendices - If a special provision includes an appendix, the page numbering continues through to the end of the appendix. Do not number the appendix separately. Section numbers in the appendix may be changed to A.1, A.2; B.1, B.2, etc.

## **5. PAY ITEM NAMES - Standard Pay Item versus Modified and Special**

5.1 Modified Pay Items - If the provision is needed to cover a standard plan item whose dimensions have been changed to match existing conditions (curb and gutter)...the pay item is MODIFIED.

If the provision is needed to require a standard material whose makeup is altered (aggregate gradation or HMA mix) the pay item is MODIFIED.

If the provision is needed to require or allow an alternate design of a standard pay item the pay item is MODIFIED.

5.2 Special Pay Items - If the provision changes the basis of payment of a standard pay item (square yard instead of cubic yard or lump sum instead of each) the pay item is SPECIAL.

If the provision requires an alternate method of construction (ex. adjusting drainage structures by first breaking down the existing structure and then rebuilding it) the pay item is SPECIAL.

5.3 New Pay Item - If the provision is needed to cover an item of work that is not even remotely covered in the standard specs (ex. lane rental) use a new pay item. If the item is later altered it may be SPECIAL (or MODIFIED if the design is altered).

Some special provisions are required only to establish a pay item for a non-standard dimension item such as Bearing, Elastomeric, \_\_\_\_ inch of a non standard thickness. Another common example is the pay item (Botanical Name) which requires the name of the specific plant, shrub or tree species to be listed. In this case, the item is neither special nor modified and the required dimension is inserted in the blank.

## **6. REVIEW PROCESS**

6.1 Submitting Documents - Submit special provision as MS Word documents to [SpecialProvision@michigan.gov](mailto:SpecialProvision@michigan.gov) (GroupWise resource address SpecialProvision). Generally allow 10 working days for reviews. If there are tighter deadlines, be sure to state this when submitting the document. If several special provisions will be submitted and it makes sense to have them reviewed together, submit them as a package and request that they be reviewed together.

Review comments will be emailed and/or returned in hard copy to the submitter. If a revision is required, resubmit the document by returning the original hard copy and email the revised provision with a new file name and include the original SP Log number, in the subject line of the email. The approved document will be returned directly to the submitter.

6.2 Assigning Reviewers - Special Provisions are reviewed for technical content, organization and conflict with other specifications. The technical review is assigned to the appropriate support area staff or to the C&T Engineer with Region responsibility for the region in which the project is located. Technical review concentrates on constructability issues and clarity of the description of work, construction requirements and method of payment.

The second review is generally completed by the Engineer of Specifications with an emphasis on conflicts with the standard specifications for construction; use of appropriate pay items and general organization of the information. Depending on the complexity of the document, the second review may be assigned to another area of the Bureau or to a second C&T Engineer.

If the special provision has been reviewed with staff in Design, C&T or T&S during its development, the formal review process may be shortened. Include the name of the reviewer if it is appropriate to have this person assigned to review the final special provision.

6.3 Approved Special Provisions - Special provisions that have been reviewed and approved for use by the C&T Support Area are to be used whenever possible to reduce the variation in descriptions of work, construction and measurement and payment for similar items of work. Designers are asked to always check for a previously approved provision to use as a first draft.

Many approved special provisions are indexed to the affected section of the standard specifications and posted to the MDOT web site. If you do not find an approved document on the web site that provides at least a starting point, send an email to [SpecialProvision@michigan.gov](mailto:SpecialProvision@michigan.gov) (GroupWise resource address SpecialProvision) requesting a search of the logs for a similar provision.

Previously Approved Special Provisions - Many provisions that come through for approval are posted to the web in MS Word (rtf) format and may be reused or revised (and in some instances must be revised) to include project specific details. Any special provision more than a few years old should be reviewed carefully to make sure the materials and construction methods are still applicable. Contact the specifications office to find out who the author is if you would like to discuss the application of their approved provision to your current project.

If no changes are required, simply insert the approved special provision in the proposal package. Do not change the source code or approval code for a special provision that has not been modified.

If only minor project specific changes are required (no change to construction methods or measurement and payment) re-approval will not be necessary. However, a new source code and revision date must be added and a copy of the revised document must be sent to C&T

If significant changes are made and the provision is submitted for re-approval, be sure to provide the source code and approval code for the previously approved version to give the reviewer a place to start. Using the track changes, highlighting or redline/strikeout features of Word is even better. It is unacceptable to make significant changes to a document without changing the source code.

Recommended Special Provisions - These provisions have been developed from duplicate provisions approved for use over the past five years and are posted to the web as Adobe (pdf) files. In order to provide continuity in the specifications for similar work and to make more efficient use of the review and approval process, designers are asked to use the recommended special provisions whenever possible. Recommended special provisions are intended to be used without revision and no further review and approval is required. If an appropriate usage statement can be developed, these provisions may be added to the Frequently Used Special Provision list.

6.4 Annual Revision of Frequently Used Special Provisions - Frequently used special provisions (FUSP) must be established or revised prior to August of each year in order to be incorporated into projects for the following construction season. The Design Support Area Quality Assurance and Control Unit and the C&T Support Area Specification Office will coordinate all requests for additions or revisions to the FUSP list.

Only those changes necessitated by Department policy changes, health and safety issues, regulatory changes or documented materials or construction defects will be made to FUSP during the first two quarters of the fiscal year. Under no circumstances will addendums be issued to projects after advertising in order to insert a revised FUSP for any but these reasons.

**NOTE:** Contact the Specifications Engineer before revising any FUSP for use as a project specific special provision.

#### 6.5. Exempt Special Provisions (Ref: BOH IM 1998-11 and BOH IM 2003-10)

Due to the nature of certain special provisions, approval by C&T staff engineers is not always a value added process. These documents are instead reviewed and approved at the Region level. The approved format and organization of content should still be followed and the appropriate source code, approval code and approval date is still required. At this time only the following types of special provisions are exempt from the C&T review and approval process:

- Maintaining Traffic
- Maintaining Waterways
- Intelligent Transportation System specifications
- Alterations to Municipal Water Service (when developed with input from Design Support Area)

## **7. PATENTED OR PROPRIETARY SPECIFICATIONS**

(Ref: 23CFR635 April, 2002)

### **§ 635.411 Material or product selection.**

(a) Federal funds shall not participate, directly or indirectly, in payment for any premium or royalty on any patented or proprietary material, specification, or process specifically set forth in the plans and specifications for a project, unless:

(1) Such patented or proprietary item is purchased or obtained through competitive bidding with equally suitable unpatented items; or

(2) The State highway agency certifies either that such patented or proprietary item is essential for synchronization with existing highway facilities, or that no equally suitable alternate exists; or

(3) Such patented or proprietary item is used for research or for a distinctive type of construction on relatively short sections of road for experimental purposes.

(b) When there is available for purchase more than one nonpatented, nonproprietary material, semi finished or finished article or product that will fulfill the requirements for an item of work of a project and these available materials or products are judged to be of satisfactory quality and equally acceptable on the basis of engineering analysis and the anticipated prices for the related item(s) of work are estimated to be approximately the same, the PS&E for the project shall either contain or include by reference the specifications for each such material or product that is considered acceptable for incorporation in the work. If the State highway agency wishes to substitute some other acceptable material or product for the material or product designated by the successful bidder or bid as the lowest alternate, and such substitution results in an increase in costs, there will not be Federal-aid participation in any increase in costs.

(c) A State highway agency may require a specific material or product when there are other acceptable materials and products, when such specific choice is approved by the Division Administrator as being in the public interest. When the Division Administrator's approval is not obtained, the item will be nonparticipating unless bidding procedures are used that establish the unit price of each acceptable alternative. In this case Federal-aid participation will be based on the lowest price so established.

(d) Appendix A sets forth the FHWA requirements regarding (1) the specification of alternative types of culvert pipes, and (2) the number and types of such alternatives which must be set forth in the specifications for various types of drainage installations.

(e) Reference in specifications and on plans to single trade name materials will not be approved on Federal-aid contracts.



## 8. GUIDELINES FOR FHWA APPROVAL OF SPECIFICATIONS

(Ref: EOC Minutes June 6, 2002)

**Standard Specifications** - No change is required to the current process. FHWA will continue to have representation when committees are established to review and revise the Standard Specifications for Construction (the spec book) in order to provide input and recommendations for approval. The complete spec book is sent to FHWA for approval prior to finalizing the book. The next MDOT spec book will be complete in 2003.

**Supplemental Specifications** - No change is required to the current process. When a supplemental specification is developed or when a frequently used specification is proposed to be elevated to supplemental status, MDOT, industry associations and FHWA are provided a 60-day review and comment period. All comments returned from reviewers are considered by the author and Engineer of Specifications prior to implementation of the supplemental specification.

**Frequently Used Special Provisions (FUSP)** - The FUSP process will be revised to include a 10-day FHWA review period with follow up and approval required prior to inclusion of the special provision on the FUSP list maintained through the Design Information Retrieval System (IRS). The use statement which provides guidance on when the special provision is to be used will also be reviewed by FHWA. Ryan Rizzo will be the coordinator for this review by FHWA.

FUSP's come up for review and revision on an annual basis during the months of July and August in order to have the FUSP's ready for the October to March project lettings. Changes or additions to the FUSP list which are requested between annual review periods are generally restricted by the following criteria.

- 1) Change in department policy
- 2) Change in state or federal regulation
- 3) Health or safety issue
- 4) Documented materials or construction method failures

Beginning with the 2002 review and revision process, all current FUSP's will be sent to FHWA for review and approval. These documents will be transmitted electronically to Ryan Rizzo for distribution to the appropriate FHWA staff for review. Reviewers may work directly with the specification author to resolve questions or concerns or may coordinate these comments through the Engineer of Specifications.

Beginning in 2002, all new FUSP's will be sent to FHWA for review and approval prior to being added to the FUSP list. If the provision has not been approved for use on NHS projects by FHWA prior to the time the author proposes that it be added to the FUSP list, the document will be forwarded to FHWA for a 10-day review.

The approved document will be sent to the Design Division along with the use statement to be added to the FUSP list.

**Developmental Special Provisions** - Most routine or project specific special provisions developed for a specific project will not require FHWA approval. However, there are certain specifications for which FHWA and MDOT have or may determine approval has not been delegated to MDOT.

These special provisions are generally developed by committees with considerable input from industry and FHWA representatives. This FHWA input will form the basis for eventual approval of the special provisions as either project specific or frequently used special provisions and the Engineer of Specifications will be notified of this approval.

If FHWA has not participated in the development of these special provisions they will go through the same review and approval process as described for FUSP's prior to being used on NHS projects. If required, this review will be coordinated through the Engineer of Specifications.

Developmental specifications are used to implement unique, innovative or experimental contracting or construction methods and have included warranty specifications and acceptance (QA) specifications.